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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,028	06/30/2000	Kartik Raghavan	MS1-498US	9044
22801	7590	11/14/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			COLIN, CARL G	
			ART UNIT	PAPER NUMBER
			2136	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/608,028

Applicant(s)

RAGHAVAN ET AL.

Examiner

Carl Colin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 4/29/2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/2005 has been entered.

### ***Response to Arguments***

1.1 In response to communications filed on 8/25/2005, for a request to continue examination, applicant amends claims 1, 4-6, 8, 13-16, 18, 21-22, 26-27, 29, 32, 34, and 36. The following claims 1-36 are presented for examination.

1.2 Applicant's arguments, pages 12-27, filed on 8/25/2005, with respect to the rejection of claims 1-36 have been fully considered, but they are moot in view of a new ground of rejection. Applicant states that Li makes no mention of a communications device which is not coupled directly to the computing system because Li shows a customer inputting a registration ID onto the Internet access device itself. Examiner disagrees and would like to point out the section to Applicant where it specifically states that the Internet access device can be accessed by a system administrator and any individual users on the LAN because a System administration module provides an interface for use with either Netscape or Internet Explorer that allows all-in one

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administration from any desktop and from any platform and provides self –maintenance automated back-ups of any user data to any workstation on the LAN (column 8, line 35 through column 9, line 17). Therefore Li mentions other devices not directly coupled or remotely coupled to each other. Applicant still argues that Li does not disclose “assessing computing system resources”, but fails in providing how the assessment of the claimed invention different from Li by stating “modifying ... by selectively installing and/or configuring... This is not a process of assessing the resources but rather modifying resources. As mentioned in the Advisory action, Applicant’s disclosure of assessing is nowhere different than Li. Applicant’s disclosure only uses the word assessment throughout without describing a process that is different from Li. Applicant’s disclosure merely recites on page 19, a user selects resources to be downloaded using a user interface. Applicant further states that there exists no assessment used as a basis for modifying in Li. Applicant’s disclosure uses a record as a basis, and Li uses a configuration file and configuration record (see Appendix in Li that provides reasons of modifying). See also Li, US Patent application 08/762,736 now US Patent 6,067,568 incorporated by reference for further details as mentioned in Li. To expedite the prosecution, a new ground of rejection is made in view of Stupek, Jr. et al and Li. Stupek, Jr. et al clearly discloses a method of assessing and automatically modifying resources (see abstract and summary). Applicant’s has amended the claims to include new limitations. However, the claims as amended also contain new matter. Claims 1-36 are now rejected in view of Li and Stupek, Jr.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2.1 Claims 1,4, 5, and 13, and the intervening claims are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter, which were not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 1 and 13, Applicant's disclosure fails to recite automatically modifying the computing system resources by selectively installing, and/or configuring certain of the communicating system resources to include at least some of the authorized and available computing system resources and settings found to be missing from the assessed computing system resources as amended. The specification on page 18 merely recites "a storage device includes resources that a configuration agent selectively downloads and installs in an identified computing system. More particularly, once configuration agent identifies discrepancy between the information contained in memory and the assessed resources control logic accesses the storage device and installs the resources necessary to bring the system in compliance with the information stored in memory." The specification does not support the claim limitations as claimed. Other sections of the specification also only refers to identifying needed resources in the computing system and downloading and installing needed resources, there is no discussion of automatically modifying as claimed, nor installing and configuring ... to

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include settings found to be missing... Amended claim 13 recites similar limitation “resources that are available to authorized users and are missing from a computing system”. Regarding claim 4, the specification fails to describe “a communications device not coupled directly to the computing system”. Figure 9 shows that the communication devices are directly coupled to each other. Claim 5 is dependent on claim 4 and is directed on the same rationale.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

**Claims 4-5, 7, and 35** and the intervening claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3.1 Regarding **claims 4 and 5** the phrase " not coupled directly " renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed. To one of ordinary skill in the art, the claim is not limited to or clearly stated how the devices are coupled and the specification does not define “not coupled directly”.

3.2 Regarding **claim 7**, the computer system and communications device are defined as being the same element. It is not clear how the limitation of claim 7 further limits claim 1 as amended. Appropriate correction is requested.

3.3 Regarding **claim 35**, there is insufficient antecedent basis for the limitation “enable the communication device...” Appropriate correction is requested.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.1 **Claims 1-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,809,287 to **Stupek, Jr. et al** in view of US Patent 6,012,088 to **Li et al**.

4.2 **As per claims 1, 2, 3, 11, and 25, Stupek, Jr. et al** substantially discloses a method and storage medium for executing instructions comprising: receiving an identifier associated with a computing system and/or computing system user (column 7, line 12-34) and discloses receiving identifier (logging information) associated with a computing system and/or computing system user (column 3, lines 53-67), assessing computing system resources, (column 3, lines 53-67); comparing the assessed communications system resources against authorized and available

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computing system resources (column 3, line 52 through column 4, line 45) and automatically modifying computing system resources based, at least in part, on the assessment of the computing system resources by selectively installing, and/or configuring certain of the communicating system resources to include at least some of the authorized and available computing system resources and settings found to be missing from the assessed computing system resources (column 3, line 52 through column 4, line 45 see also figures 5A-5C with appropriate description). **Stupek, Jr. et al** also discloses in another embodiment that the same process can also be used to analyze the availability for upgrades and generates upgrade jobs for individual clients connected to the server; client resources may be upgraded automatically through the upgrade installer of the server (see column 9, lines 1-11; see also column 12, line 60 through column 13, line 35). **Stupek, Jr. et al** discloses a database that contains a profile associated with computer systems and dependency information of whether upgrades are authorized to user and whether upgrades apply to a server and whether or not upgrades are (missing) not stored in memory (see column 6, line 19 through column 7, line 47). **Stupek, Jr. et al** does not provide details about the use of identifier using online services as it is well known in the art that in order to obtain configuration and software upgrade from an online service the computer system or computer user has to provide information (identifier) to the server or provider so that the server/provider knows whether the service is authorized and can identify the host receiving the service. **Li et al**, in an analogous art, discloses a computer device using automatic configuration process to automatically configure itself online by simply sending a valid registration ID and telephone number and further discloses a system administration module that provides self-maintenance via an agent automated backups of any user data to any



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workstation, automated software management for software updates and automated log and audit management (column 8, line 35 through column 9, line 17 and column 10, lines 25-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of **Stupek, Jr. et al** to automatically configuring a device upon receiving a valid identifier as taught by **Li et al** in order to authenticate the computing system and computing system user, avoid human errors, and save time (see column 15, lines 1-15 and column 10, lines 25-65). One skilled in the art would have been motivated to do so because it provides automatic configuration upon verification or authentication of the computing system and computing system user and enables a very quick, simple, and error-proof of invoking an automatic configuration process that would avoid human errors and save time, for example (see column 15, lines 1-15 column 10, lines 25-65) as suggested by **Li et al**.

As per claims 4, 9, and 10, the combination of **Stupek, Jr. et al** and **Li et al** discloses the claimed method of claim 1. **Stupek, Jr. et al** further discloses upgrading can be performed by receiving identifier from logging to a server or information from memory as discussed in claim 1, and the upgrade can be performed on a network server as well as a network client (column 2, lines 5-25 column 3, lines 18-30). **Li et al** discloses the limitation of a server receiving identifier associated with a computing system and/or computing system user from an access device wherein the access device (communications device) is not coupled directly to the computing system and/or computing system user that meets the recitation of receiving an identifier associated with a computing system and/or computing system user from a computing system and/or a communications device not coupled directly to the computing system, for

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example (see column 14, line 50 through column 15, line 15; column 8, line 35 through column 9, line 17). These claims are also rejected on the same rationale as the rejection of claim 1 above.

As per claims 5, 8, 35-36, the combination of **Stupek, Jr. et al** and **Li et al** discloses the claimed method of claim 4. **Li et al** discloses other computers on a LAN attached to the Internet access device are allowed to be configured and various application and services can be automatically configured (see also column 15, line 55 through column 16, line 20); **Li et al** discloses providing self-maintenance automated back-ups of any user data to any workstation on the LAN (column 8, line 35 through column 9, line 17; and column 18, lines 1-15). Examiner takes official notice that migration of computer resources in a LAN system is well known in the art where more than one computer device or system may be automatically modified based at least in part of assessment of computer resources. US Patent 6,182,212 to Atkins et al discloses automating migration of user settings from an existing computer to a replacement computer system in response to user input so that the new system is enabled to perform the same task as the old system (see abstract and column 1). It would have been obvious to one skilled in the art to send information from one computer system or any workstation device to the upgrade service to migrate and/or modify resources in several workstations of an Intranet or a LAN system as suggested by **Li et al**. One skilled in the art would have been motivated to do so by the suggestions provided by Atkins et al to enable the new system to perform the same task as the old system and suggestions provided by **Li et al** to provide self-maintenance, automated back-ups of any user data to any workstation on the LAN where a customer is not required to enter

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information nor to modify or configure the device in any way (column 8, line 35 through column 9, line 17 and column 15, line 1-10). These claims are also rejected on the same rationale as the rejection of claim 1 above.

**As per claims 6, 7, and 22, Stupek, Jr. et al** discloses the limitation of selectively updating certain computing system resources based, at least in part, on the comparison of the assessed computing system resources against authorized and available computing system resources, for example (see column 3, line 52 through column 4, line 45 see also figures 5A-5C with appropriate description). Claim 7 recites similar limitation as claim 1 except for replacing the computing system by a communications device and is rejected on the same rationale. These claims are also rejected on the same rationale as the rejection of claim 1 above.

**As per claims 12 and 20, Stupek, Jr. et al** discloses a server comprising: a storage device (7, 9) having stored therein a plurality of executable instructions; and a control unit (10), coupled to the storage device (see figure 1).

**As per claim 13-18, 21, and 26,** these claims recite similar limitations as claim 1 except for implemented the claimed limitation method in a server. **Stupek, Jr. et al** discloses a server comprising: a storage device (7, 9) to maintain profile of resources available or not available to authorized users, the profile includes identifiers associated with a computing system and/or computing system user and an upgrade device (10) that meets the recitation of a configuration agent, coupled to the storage device, that can perform the limitations as explained in claim 1

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above (column 7, line 12-34 and column 3, line 52 through column 4, line 45). These claims are also rejected on the same rationale as the rejection of claim 1 above.

**As per claim 19, Stupek, Jr. et al** discloses the limitation of wherein the identifier is associated with a computing system and/or computing system user hardware and/or software resources, for example (see column 7, lines 10-35).

**As per claim 23, Stupek, Jr. et al** discloses a upgrade device (configuration agent) configures to interrogates the computing system upon receipt of the identifier to assess computing system resources, for example (see column 7, lines 10-35 and column 3, line 52 through column 4, line 45).

**As per claim 24, Stupek, Jr. et al** discloses the limitation of wherein the configuration agent downloads and automatically installs system resources on the computing system based, at least in part, on the assessed computing system resources (see column 7, lines 10-35 and column 3, line 52 through column 4, line 45).

**As per claims 27-31,** claims 27-31 contain some of the limitations of claim 1 except for implemented the claimed method into a system. **Stupek, Jr. et al** discloses a computing system (1) comprising a storage device (3) having stored thereon plurality of executable instructions, on-line service that meets the recitation of a network interface, communicatively coupling the computing system to a network (see column 3, lines 53-67); and a server manager that meets the

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recitation of a controller coupled to the storage device for executing instructions, making assessment and making configuration request of resources that that need to be ungraded including resources of the computing system 1 and client computers, (see column 3, line 18 through column 4, line 45 and figures 1-3). These claims are also rejected on the same rationale as the rejection of claim 1 above.

**As per claims 32-34**, claims 32-34 recite similar but broader limitations than claim 1. **Stupek, Jr. et al** discloses automatic configuration of new resources (see abstract) and automatically updating resources as discussed above. Therefore these claims are rejected on the same rationale as the rejection of claim 1 above.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ce*

Carl Colin

Patent Examiner

November 3, 2005

  
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